

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

STATE OF MISSOURI, ex rel. )  
MISSOURI HIGHWAYS AND )  
TRANSPORTATION COMMISSION ) Cause No.:  
 )  
 Plaintiff, ) Circuit Court – St. Louis County  
 ) Cause No.: 09SL –CC00136  
vs. ) Division  
 )  
 EAGLE POINT SOFTWARE )  
 CORPORATION ) **JURY TRIAL DEMANDED**  
 )  
 Defendant. )

**NOTICE OF REMOVAL**

COMES NOW Defendant, Eagle Point Software Corporation, and for its Notice of Removal, states to the Court the following:

1. On or about January 9, 2009, Plaintiff Missouri Highways and Transportation Commission (hereinafter “MHTC”) filed an original petition in the Circuit Court of St. Louis County, Missouri claiming breach of contract and product liability arising from a fire that occurred in St. Louis County on or about February 7, 2008. A copy of said Petition in Cause 09SL –CC00136 is attached hereto and incorporated herein as Exhibit A.

2. Plaintiff is a state agency authorized to sue in its own name pursuant to Mo. Rev. Stat. §226.100.

3. Defendant Eagle Point Software Corporation is a foreign corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Dubuque, Iowa. Therefore, for purposes of removal based on the diversity of citizenship, Defendant is not a citizen of the State of Missouri.

4. The amount of controversy in this action, exclusive interest and costs, exceeds the sum of \$75,000.

5. Plaintiff's Petition was served on Defendant on January 28, 2009. Therefore, this notice of removal has been timely filed within thirty (30) days pursuant to 28 U.S.C. §1446.

6. Because complete diversity of citizenship exists between Plaintiff and Defendant and because the amount in controversy in this action exceeds the sum of \$75,000.00, removal to this Court is proper pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1446.

7. Defendant, simultaneously, with the filing of this Notice of Removal, has given written notice of our filing of this Notice of Removal to Plaintiff, and will file a copy of the Notice of Removal with the Clerk of the Court of Saint Louis County.

**BROWN & JAMES, P.C.**

/s/ Russell F. Watters \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing was sent via U.S. Mail, postage prepaid this 18th day of February, 2009, to: Theresa A. Otto, 4600 Madison Ave., Ste. 210, Kansas City, MO 64112-3012; and Jaudon R. Godsey, 231 South Bemiston Ave., Ste. 230, St. Louis, MO 63105, *Attorney for Plaintiff*.

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/s/ Russell F. Watters